



U. S. Department of Justice

Antitrust Division

FRITO-LAY/EAGLE

60-2096-0002

RWF

DNK

HALE

PTACEK

SWEENEY

ALEXANDER

JONES

CASE

CHRON

ARCHIVE

325 7th Street, N.W., Suite 500

Washington, DC 20530

July 11, 1996

Dear [REDACTED]

You have indicated that some of the material and information that your client, [REDACTED] has agreed to produce will contain competitively sensitive business information and that your client wants such information to be treated as confidential. In particular, your client has inquired about the treatment of such information under the Freedom of Information Act (FOIA).

Where a voluntary submission of information has been designated in good faith as confidential, the Antitrust Division's policy is to provide confidential treatment for such information. Although we can not guarantee the result of any future litigation, we have in the past successfully prevented disclosure of voluntarily submitted information under the FOIA. See, e.g., Mitsubishi Elec. Corp. v. U.S. Dep't of Justice, 1977-1 Trade Cas. (CCH) ¶ 61,356 (D.D.C. 1977) (information voluntarily submitted by multinational corporations protected from disclosure under several FOIA exemptions); see also Critical Mass Energy Project v. NRC, 975 F.2d 871, 879 (D.C. Cir. 1992) (leading case on voluntarily submitted business information), cert denied, 113 S. Ct. 1579 (1993). Your client should also be aware that if we receive a FOIA request covering what has been designated confidential business information and we determine we are required to disclose that information, we are required to notify the company that submitted the information so that it may object. See 28 C.F.R. § 16.7. Similarly, should we find ourselves in litigation and in receipt of a discovery request covering materials that have been designated confidential business information, we will notify the submitting company so that it may seek a protective order.

I hope that this information is helpful to your client. We look forward to receiving the materials that we requested in the telephone interview on June 10, 1996. Please feel free to call me if you have any other questions.

Sincerely,

Nina Hale

Nina B. Hale

United States Department of Justice

Antitrust Division

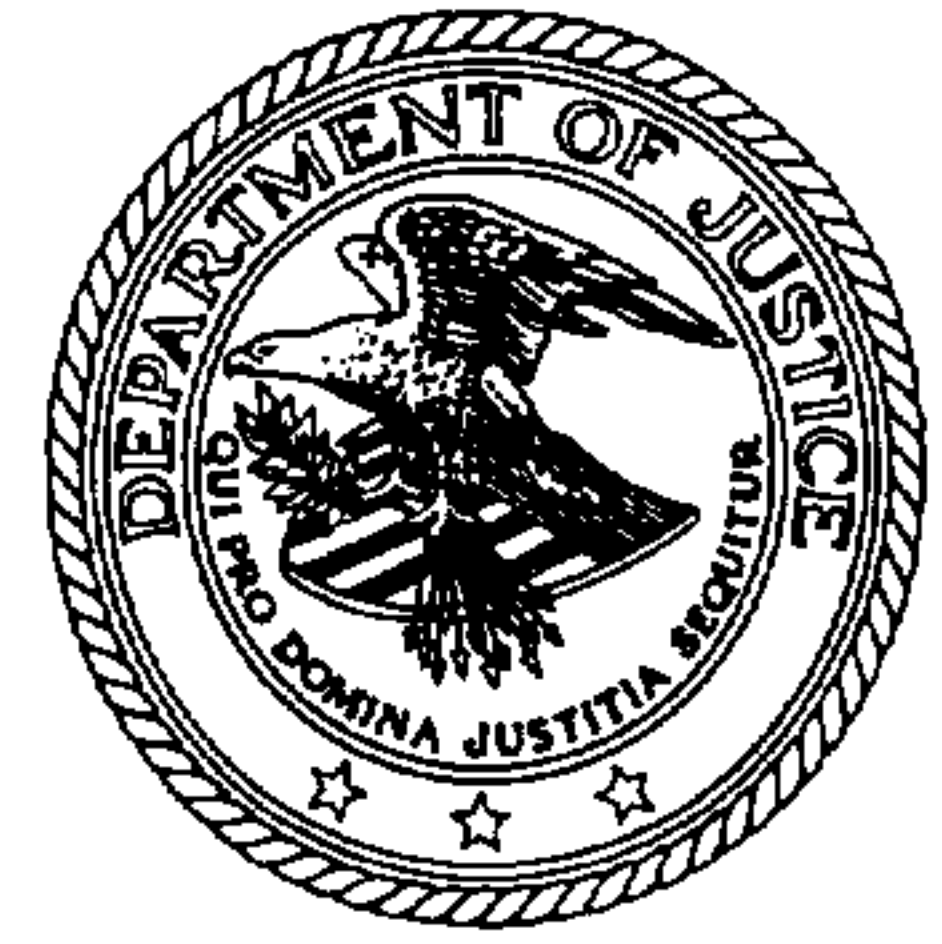
Transportation, Energy & Agriculture

325 Seventh Street, N.W., Suite 500

Washington, D.C. 20004

Fax Number: (202)616-2441 or 307-2784

Voice Number: (202)307-0892



The information contained in this facsimile is government privileged and confidential information intended only for the use of the addressee(s) listed on this coversheet. If the reader of this message is not the intended recipient(s), you are hereby notified that any dissemination, distribution or copying of the telecopy is strictly prohibited. If you have received this facsimile in error, please immediately notify the sender at the telephone number listed on this coversheet and the original facsimile must be returned via the United States Postal Service to the address above. Thank you.

FAX COVER SHEET

DATE: July 19, 1996
TO: Mark Schechter, Esq.
of: Howrey & Simon
Fax Number: 202-383-6610
FROM: Nina B. Hale

Pages Sent (including this sheet): 3

Remarks: